

Federal Communications Commission

DA 02-2203

Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of)

Lucent's Third Supplement to Petition for
Declaratory Ruling on State Consumer

Protection Laws as They Relate to
AT&T/Lucent Leasing of Customer Premises
Equipment)

WC Docket No. 02-147

ORDER

Adopted: September 6, 2002

Released: September 6, 2002

Revised Filing Date:

Reply Comments Due: Filing Date Suspended Until Further Notice

By the Wireline Competition Bureau:

1. On June 28, 2002, the Wireline Competition Bureau released a Public Notice requesting comments and reply comments on Lucent Technologies Inc.'s (Lucent's) Third Supplement to its original Motion for Declaratory Ruling concerning the application of state consumer protection laws to the leasing of certain customer premises equipment (CPE) by AT&T and Lucent.¹ On August 12, 2002, Lucent and Charles Sparks and Margaret Little, individually and on behalf of the plaintiff class in *Sparks v. AT&T Corp.*, Case Nos. 96-LM-983, 01-L-1668 (Ill. 3d Jud. Cir.) (plaintiffs) filed a joint motion asking the Commission to extend the reply comment date, then scheduled for August 13, 2002, and defer all further action in this proceeding in light of a preliminary Settlement Agreement entered into by Lucent, AT&T Corp. and plaintiffs on August 9, 2002.² This Agreement will become final if approved following the

¹ Public Notice, *Comments Sought on Lucent's Third Supplement to Petition for Declaratory Ruling on State Consumer Protection Laws as They Relate to AT&T/Lucent Leasing of Customer Premises Equipment*, WC Docket No. 02-147, DA 02-1533 (rel. June 28, 2002).

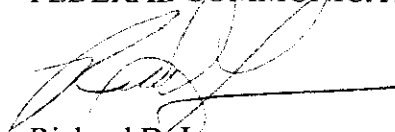
² Lucent and Plaintiffs Joint Motion to Extend Reply Comment Deadline and Defer All Further Action, *Lucent's Third Supplement to Petition for Declaratory Ruling on State Consumer Protection Laws as They Relate to AT&T/Lucent Leasing of Customer Premises Equipment*, WC Docket No. 02-147 (fil. August 12, 2002) (Joint Motion). The tentative Settlement Agreement gives the plaintiffs a limited period of time in which to withdraw from the Agreement if the Commission does not issue an Order staying action in this proceeding or the procedural equivalent by September 6, 2002. *Id.* at Attachment I, Class Action Settlement Agreement at Section 2.08.

Illinois court's fairness hearing currently scheduled for November 4, 2002.³ In an order released on August 12, 2002, the Wireline Competition Bureau extended the date for filing reply comments until November 22, 2002.⁴ In doing so, the Bureau stated that given the need for immediate action on the request for extension of the date for filing reply comments, it would act on the request to defer further action in this proceeding at a later date.⁵

2. In light of the preliminary Settlement Agreement, we now hold the proceedings in this Docket in abeyance pending the outcome of the Illinois court's fairness hearing. We believe that such action is warranted given the unique circumstances presented by this case. In particular, Lucent and the plaintiffs have specifically asked us to issue an order deferring action in this case. Moreover, approval of the preliminary Settlement Agreement by the judge in the state court proceedings would resolve the issues involved to the satisfaction of all parties to the litigation. In conjunction with this, we suspend the filing of reply comments until further notice.

3. Accordingly, IT IS ORDERED, pursuant to sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 & 0.291, that further proceedings in this Docket ARE HELD IN ABEYANCE pending the outcome of the Illinois court's fairness hearing. IT IS FURTHER ORDERED, that the date for filing reply comments is suspended until further notice.

FEDERAL COMMUNICATIONS COMMISSION



Richard D. Lerner
Associate Chief, Wireline Competition Bureau

³ *Id.* at 2.

⁴ *Lucent's Third Supplement to Petition for Declaratory Ruling on State Consumer Protection Laws as They Relate to AT&T/Lucent Leasing of Customer Premises Equipment*, WC Docket No. 02-147, Order, FCC 02-1999 (rel. Aug. 12, 2002).

⁵ *Id.* at 2.